

**Introduced by Senators Runner and Lowenthal**

February 24, 2006

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An act to amend Section 22658 of the Vehicle Code, relating to vehicles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1593, as introduced, Runner. Vehicles: removal: storage.

(1) Existing law requires a towing company to remove a vehicle parked on private property to the nearest public garage under specific circumstances if, among other things, the property owner or lessee's prior written authorization is obtained. Existing law requires as one of the conditions under which a vehicle may be removed from private property that a sign of specified dimensions and specified size for lettering conveying specified information be posted on the property. Existing law makes it a crime to violate provisions of the Vehicle Code.

This bill would, among other things:

(a) Require a vehicle be removed to a storage facility meeting certain requirements, as specified.

(b) Increase the required dimensions and lettering size, and would require the sign to include the name and telephone number of the towing company authorized to remove vehicle from the property.

(c) Require a towing company to post either a \$25,000 or \$50,000 bond, as applicable, and to hold a valid motor carrier permit, and to provide copies of the bond and permit to the owner, owner's agent, or person in lawful possession of the private property.

(d) Eliminate the liability of a towing company for damages to a removed vehicle while in transit and subsequent storage if the removal is made with the authorization of the owner, owner's agent, or person in lawful possession of the private property.

(e) Subject to a civil penalty of \$2,500, a towing company that fails to obtain the required bond.

(f) Require the owner, owner's agent, or person in lawful possession of the private property to have a written agreement containing specified terms with a towing company before authorizing the removal of a vehicle parked on the private property.

(g) Increase the liability of an owner, owner's agent, or person in lawful possession of the private property, not to exceed \$750, who fails to comply with specified requirements.

(h) Make a tow truck operator liable for a specified amount if the operator fails to return a vehicle to the vehicle's owner or owner's agent, upon his or her request, when the vehicle has not been removed from the property.

(i) Limit, to a specified amount, the release fee that a storage facility operator may charge for releasing a vehicle after normal business hours, as defined.

(j) Require a tow truck operator and all of the towing company's drivers to meet specified requirements.

(k) Require a tow truck operator removing a vehicle from a private property to take 2 photographs of the vehicle clearly showing the violation before removing the vehicle and to provide a vehicle owner or owner's agent with one of the photographs, under specified conditions.

The bill would by imposing new requirements for a towing company or a tow truck operator to remove a vehicle from private property, including having to have a valid motor carrier permit, would create new crimes, and thereby impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 22658 of the Vehicle Code is amended to read:

22658. (a) Except as provided in Section 22658.2, ~~the an~~ owner, *the owner's agent*, or person in lawful possession of ~~any~~ private property, *who has reliable documentation showing that the towing company that will be used to remove, a vehicle has posted a twenty-five thousand dollar (\$25,000) bond that meets the requirements of subdivision (o) and has a valid motor carrier permit issued pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85,* within one hour of notifying, by telephone or, if impractical, by the most expeditious means available, the local traffic law enforcement agency, may cause the removal of a vehicle parked on the property to ~~the nearest public garage~~ *a storage facility that meets the requirements of subdivision (n)* under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than ~~17 by 22~~ 18 by 24 inches in size, with lettering not less than one ~~and one-quarter-inch~~ inches in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency ~~and the name and telephone number of the towing company authorized to remove vehicles from the property.~~ The sign may also indicate that a citation may also be issued for the violation.

(2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.

(3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the local traffic law enforcement agency, and 24 hours have elapsed since that notification.

(4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) ~~The person causing removal of person causing removal of person causing removal of person causing removal of person causing removal of tow truck operator removing the vehicle, if the that~~ person knows or is able to ascertain from the registration

1 records of the Department of Motor Vehicles the name and  
2 address of the registered and legal owner of the vehicle, shall  
3 immediately give, or cause to be given, notice in writing to the  
4 registered and legal owner of the fact of the removal, the grounds  
5 for the removal, and indicate the place to which the vehicle has  
6 been removed. If the vehicle is stored in a ~~public garage storage~~  
7 ~~facility~~, a copy of the notice shall be given to the proprietor of the  
8 ~~garage facility~~. The notice provided for in this section shall  
9 include the amount of mileage on the vehicle at the time of  
10 removal. If the ~~person~~ *tow truck operator* does not know and is  
11 not able to ascertain the name of the owner or for any other  
12 reason is unable to give the notice to the owner as provided in  
13 this section, the ~~person causing removal of the vehicle~~ *tow truck*  
14 *operator* shall comply with the requirements of subdivision (c) of  
15 Section 22853 relating to notice in the same manner as applicable  
16 to an officer removing a vehicle from private property.

17 (c) This section does not limit or affect any right or remedy  
18 which the owner, *the owner's agent*, or person in lawful  
19 possession of private property may have by virtue of other  
20 provisions of law authorizing the removal of a vehicle parked  
21 upon *the* private property.

22 (d) The owner of a vehicle removed from private property  
23 pursuant to subdivision (a) may recover for any damage to the  
24 vehicle resulting from any intentional or negligent act of any  
25 person causing the removal of, or removing, *or storing*, the  
26 vehicle.

27 (e) ~~Any~~ *An* owner, *owner's agent*, or a person in lawful  
28 possession of ~~any~~ private property, or an "association" pursuant  
29 to Section 22658.2, causing the removal of a vehicle parked on  
30 that property is liable for ~~double~~ *four times* the *applicable* storage  
31 ~~or~~ *and* towing charges, *but not to exceed seven hundred fifty*  
32 *dollars (\$750)*, whenever there has been a failure to comply with  
33 paragraph (1), (2), or (3) of subdivision (a) or to state the grounds  
34 for the removal of the vehicle if requested by the legal or  
35 registered owner of the vehicle as required by subdivision (f).

36 (f) ~~Any~~ *An* owner, *owner's agent* or a person in lawful  
37 possession of ~~any~~ private property, or an "association" pursuant  
38 to Section 22658.2, causing the removal of a vehicle parked on  
39 that property, *or a tow truck operator that removes the vehicle*,  
40 shall state the grounds for the removal of the vehicle if requested

1 by the legal or registered owner of that vehicle. ~~Any~~ A towing  
2 company that removes a vehicle from private property with the  
3 authorization of the property owner or the property owner's agent  
4 shall not be held responsible in any situation relating to the  
5 validity of the removal. ~~Any~~ A towing company that removes the  
6 vehicle under this section shall be responsible for ~~(1) any damage~~  
7 ~~to the vehicle in the transit and subsequent storage of the vehicle~~  
8 ~~and (2) the removal of a vehicle other than the vehicle specified~~  
9 by the owner, *owner's agent* or other person in lawful possession  
10 of the private property.

11 (g) Possession of ~~any~~ a vehicle under this section shall be  
12 deemed to arise when a vehicle is removed from private property  
13 and is in transit.

14 (h) A towing company may impose a charge of not more than  
15 one-half of the regular towing charge for the towing of a vehicle  
16 at the request of the owner ~~of private property or that, the~~  
17 *owner's agent, or the person in lawful possession of private*  
18 *property* pursuant to this section, if the owner of the vehicle or  
19 the owner's agent returns to the vehicle ~~before it~~ *after it has been*  
20 *coupled to the tow truck by means of a regular hitch, coupling*  
21 *device, drawbar, portable dolly, or lifted off the ground by means*  
22 *of a conventional trailer, but before the vehicle* is removed from  
23 the private property. The regular towing charge may only be  
24 imposed after the vehicle has been removed from the property  
25 and is in transit. *A tow truck operator that refuses to return the*  
26 *vehicle to the vehicle's owner or owner's agent pursuant to this*  
27 *subdivision until the tow truck operator receives payment of the*  
28 *fee specified in this subdivision shall be liable for four times the*  
29 *applicable towing and storage charges, but not to exceed two*  
30 *thousand five hundred dollars (\$2,500). A vehicle owner who*  
31 *fails to pay the fee specified in this subdivision within 45 days of*  
32 *receipt of a written invoice shall be responsible for the full*  
33 *regular towing charge, any applicable storage charge, and all*  
34 *reasonable costs of collection.*

35 (i) (1) A charge for towing or storage, or both, of a vehicle  
36 under this section is excessive if the charge is greater than that  
37 which would have been charged for towing or storage, or both,  
38 made at the request of a law enforcement agency under an  
39 agreement between the law enforcement agency and a towing  
40 company in the city or county in which is located the private

1 property from which the vehicle was, or was attempted to be,  
2 removed.

3 (2) If a vehicle is released within 24 hours from the time the  
4 vehicle is brought into the storage facility, regardless of the  
5 calendar date, the storage charge shall be for only one day. Not  
6 more than one day's storage charge may be required for any  
7 vehicle released the same day that it is stored.

8 (3) If a request to release a vehicle is made and the appropriate  
9 fees are tendered and documentation establishing that the person  
10 requesting release is entitled to possession of the vehicle, or is  
11 the owner's insurance representative, is presented within the  
12 initial 24 hours of storage, and the storage facility fails to comply  
13 with the request to release the vehicle or is not open for business  
14 during normal business hours, then only one day's storage charge  
15 may be required to be paid until after the first business day. A  
16 business day is any day in which the lienholder is open for  
17 business to the public for at least eight hours. If a request is made  
18 more than 24 hours after the vehicle is placed in storage, charges  
19 may be imposed on a full calendar day basis for each day, or part  
20 thereof, that the vehicle is in storage. *A fee charged to release*  
21 *vehicles after the normal business hours shall not exceed*  
22 *one-half the regular towing charge. A storage facility operator*  
23 *that charges a fee for releasing a vehicle stored pursuant to this*  
24 *section during normal business hours, or charges any fee in*  
25 *excess of the fee authorized by this paragraph, is liable to the*  
26 *vehicle owner for four times the applicable towing charges.*

27 (j) ~~Any~~ A person who charges a vehicle owner a towing,  
28 service, or storage charge at an excessive rate, as described in  
29 subdivision (i), is liable to the vehicle owner for four times the  
30 amount charged.

31 (k) Persons operating or in charge of any storage facility  
32 where vehicles are stored pursuant to this section shall accept a  
33 valid bank credit card, *including, but not limited to, Visa or*  
34 *Mastercard*, or cash for payment of towing and storage by a  
35 registered owner or the owner's agent claiming the vehicle. A  
36 person operating or in charge of any storage facility who refuses  
37 to accept a valid bank credit card, *including, but not limited to,*  
38 *Visa or Mastercard*, is liable to the registered owner of the  
39 vehicle for four times the amount of the towing and storage  
40 charges, but not to exceed ~~five hundred dollars (\$500)~~ *seven*

1 *hundred fifty dollars (\$750).* In addition, persons operating or in  
2 charge of the storage facility shall have sufficient moneys on the  
3 premises of the primary storage facility during normal business  
4 hours to accommodate, and make change in, a reasonable  
5 monetary transaction.

6 Credit charges for towing and storage services shall comply  
7 with Section 1748.1 of the Civil Code. Law enforcement  
8 agencies may include the costs of providing for payment by  
9 credit when making agreements with towing companies as  
10 described in subdivision (i).

11 *(l) (1) (A) A towing company shall not remove or commence*  
12 *the removal of a vehicle from private property without first*  
13 *obtaining written authorization from the property owner—~~or~~*  
14 *~~lessee, or an employee or agent, the owner's agent, or the person~~*  
15 *in lawful possession thereof, who shall be present at the time of*  
16 *removal. ~~General~~*

17 *(B) General authorization to remove or commence removal of*  
18 *a vehicle at the towing company's discretion shall not be*  
19 *delegated to a towing company or its affiliates ~~except in the case~~*  
20 *~~of a vehicle unlawfully parked within 15 feet of a fire hydrant or~~*  
21 *~~in a fire lane, or in a manner which interferes with any entrance~~*  
22 *~~to, or exit from, the private property. unless the towing company~~*  
23 *meets all of the following requirements:*

24 *(i) The towing company and the property owner, owner's*  
25 *agent, or person in lawful possession of the private property have*  
26 *a valid, written agreement that authorizes the towing company to*  
27 *remove vehicles from the property.*

28 *(ii) The written agreement contains rules under which a*  
29 *vehicle can be removed from the property and is available for*  
30 *inspection by a law enforcement officer during normal business*  
31 *hours.*

32 *(iii) The tow truck operator responsible for removing the*  
33 *vehicle from the property has, in his or her possession, a copy of*  
34 *the rules under which a vehicle can be removed from the*  
35 *property.*

36 *(iv) The towing company posts a fifty thousand dollar*  
37 *(\$50,000) bond that meets the requirement of subdivision (o) and*  
38 *provides a certified copy of the bond to the property owner,*  
39 *owner's agent, or person in lawful possession of the property as*

1 *an attachment to the valid written agreement required by this*  
2 *subparagraph.*

3 *(v) The tow truck operator responsible for removing the*  
4 *vehicle from the property successfully completed a Department*  
5 *of California Highway Patrol approved tow truck driver training*  
6 *and education course within 90 days of being hired by the towing*  
7 *company.*

8 *(vi) All of the towing company's drivers are enrolled in the*  
9 *Department of Motor Vehicle's Pull Notice Program.*

10 *(vii) The towing company has a valid motor carrier permit and*  
11 *has provided a certified copy of the permit to the property owner,*  
12 *owner's agent, or person in lawful possession of the property as*  
13 *an attachment to the valid written agreement required by this*  
14 *subparagraph.*

15 *(viii) Prior to removing a vehicle from the property pursuant*  
16 *to this subparagraph, the tow truck operator takes two*  
17 *photographs of the vehicle that clearly show the violation, and*  
18 *provide one photograph to the vehicle's owner or owner's agent*  
19 *upon demand during normal business hours. A towing company*  
20 *or tow truck operator that fails to provide a copy of the*  
21 *photograph as required by this clause is liable to the vehicle's*  
22 *owner for four times the amount of the applicable towing and*  
23 *storage charges, but not to exceed two thousand five hundred*  
24 *dollars (\$2,500).*

25 ~~*(2) If a towing company removes a vehicle without written*~~  
26 ~~*authorization and that vehicle is unlawfully parked within 15 feet*~~  
27 ~~*of a fire hydrant or in a fire lane, or in a manner which interferes*~~  
28 ~~*with any entrance to, or exit from, the private property, the*~~  
29 ~~*towing company shall take, prior to the removal of that vehicle, a*~~  
30 ~~*photograph of the vehicle which clearly indicates that parking*~~  
31 ~~*violation. The towing company shall keep one copy of the*~~  
32 ~~*photograph taken pursuant to this paragraph, and shall present*~~  
33 ~~*that photograph to the owner or an agent of the owner, when that*~~  
34 ~~*person claims the vehicle.*~~

35 ~~*(3)*~~

36 ~~*(2) Any*~~ *A towing company, tow truck operator, or any*  
37 *affiliate of a towing company, which that removes, or*  
38 *commences removal of, a vehicle from private property without*  
39 *first obtaining written authorization from the property owner or*  
40 *lessee, or an employee or agent thereof, who is present at the*



~~time of removal or commencement of the removal, except as permitted by paragraph (1); complying with paragraph (1) is liable to the owner of the vehicle for four 10 times the amount of the towing and storage charges, but not to exceed two thousand five hundred dollars (\$2,500), in addition to any applicable criminal penalty, for a violation of paragraph (1).~~

*(m) (1) A towing company or tow truck operator that removes or commences the removal of a vehicle from private property without a valid motor carrier permit is guilty of a misdemeanor and shall be punished pursuant to Section 34661.*

*(2) A member of the Department of California Highway Patrol or any other law enforcement officer may impound a tow truck when the vehicle is found to be operating without a valid motor carrier permit.*

*(3) The tow truck shall be released to the registered owner or authorized agent after the registered owner or agent furnishes the Department of California Highway Patrol proof of current registration, a currently valid driver's license of the appropriate class to operate the vehicle or combination of vehicles, and proof of compliance with Division 14.85 (commencing with Section 34600). The registered owner or authorized agent is responsible for all towing and storage charges related to the impoundment.*

*(n) A vehicle removed from private property pursuant to this section shall be stored in a facility that meets all of the following requirements:*

*(1) Is located within a 20-mile radius of the property from where the vehicle was removed.*

*(2) Remains open during normal business hours and releases vehicles after normal business hours.*

*(3) Has a public pay phone within 100 feet of the entrance of the storage facility.*

*(4) Has liability and property insurance of at least one million dollars (\$1,000,000) in place.*

*(5) Is enclosed by a permanent security fence and equipped with adequate lighting, if the facility is outdoors.*

*(o) (1) A towing company removing a vehicle pursuant to this section shall procure and file with the Department of Motor Vehicles a bond, in the amount of twenty-five thousand dollars (\$25,000), executed by an admitted surety insurer, approved as to form by the Attorney General, and conditioned that the towing*

1 *company shall not practice any fraud or make any fraudulent*  
2 *presentation that will cause a monetary loss to the owner,*  
3 *owner's agent, or person in lawful possession of private*  
4 *property; or the owner of a vehicle; and that the towing company*  
5 *shall satisfy any liability to the owner of a vehicle imposed*  
6 *pursuant to this section.*

7 *(2) A towing company that does not procure a bond as*  
8 *required by this subdivision or clause (iv) of subparagraph (B) of*  
9 *paragraph (1) of subdivision (l) is subject to a civil penalty of*  
10 *two thousand five hundred dollars (\$2,500).*

11 *(p) For the purposes of this section, "normal business hours"*  
12 *are Monday through Friday from 8:00 a.m. to 5:00 p.m., except*  
13 *on state holidays.*

14 ~~*(m)*~~

15 *(q) (1) It is the intent of the Legislature in the adoption of*  
16 *subdivision (k) to assist vehicle owners or their agents by, among*  
17 *other things, allowing payment by credit cards for towing and*  
18 *storage services, thereby expediting the recovery of towed*  
19 *vehicles and concurrently promoting the safety and welfare of the*  
20 *public.*

21 *(2) It is the intent of the Legislature in the adoption of*  
22 *subdivision (l) to further the safety of the general public by*  
23 *ensuring that a private property owner or lessee has provided his*  
24 *or her authorization for the removal of a vehicle from his or her*  
25 *property, thereby promoting the safety of those persons involved*  
26 *in ordering the removal of the vehicle as well as those persons*  
27 *removing, towing, and storing the vehicle.*

28 SEC. 2. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the  
33 penalty for a crime or infraction, within the meaning of Section  
34 17556 of the Government Code, or changes the definition of a  
35 crime within the meaning of Section 6 of Article XIII B of the  
36 California Constitution.